

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ARA MARUTYAN, *et al.*,

Plaintiffs,

vs.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT,

Defendant.

Case No. 2:16-cv-1089-MMD-GWF

ORDER

This matter is before the Court on the parties' Stipulation and Order to Stay Discovery (ECF No. 24), filed on August 25, 2016.

On May 16, 2016, Plaintiffs filed their complaint alleging violations of 42 U.S.C. § 1983 based upon Defendant LVMPD's alleged illegal seizures and retention of Plaintiffs' property. *See* ECF No. 1. On June 10, 2016, Defendant LVMPD filed its Motion to Dismiss (ECF No. 6) for failure to state a claim. On July 13, 2016, Plaintiff's counsel was appointed as pro bono counsel (ECF No. 15). On August 2, 2016, the Court conducted a status conference and granted leave to Plaintiffs to file their supplement to Plaintiffs' Opposition to Defendant's Motion to Dismiss. *See* ECF No. 19. The parties request a 45 day extension of the deadline for Plaintiffs to file their supplement to their Opposition to Defendant's Motion to Dismiss. A related state court proceeding is ongoing between the parties that is docketed in the Eighth Judicial District Court of Nevada. An evidentiary hearing in state court has been set for October 7, 2016 for the purpose of resolving the parties' claims. The parties represent that the state court evidentiary hearing is likely to be continued because the parties have not commenced discovery and because there are pending motions. The parties request a temporary stay of discovery pending the resolution of Defendant's Motion to Dismiss.

1 The Federal Rules of Civil Procedure do not provide for automatic or blanket stays of
 2 discovery when a potentially dispositive motion is pending. *See Skellerup Indus. Ltd. V. City of L.A.*,
 3 163 F.R.D. 598, 600-1 (C.D. Cal. 1995). Ordinarily, a dispositive motion does not warrant a stay of
 4 discovery. *See Twin City Fire Insurance v. Employers of Wausau*, 124 F.R.D. 652, 653 (D. Nev.
 5 1989). *See also Turner Broadcasting System, Inc. v. Tracinda Corp.*, 175 F.R.D. 554, 556 (D. Nev.
 6 1997). Courts have broad discretionary power to control discovery. *See Little v. City of Seattle*, 863
 7 F.2d 681, 685 (9th Cir.1988). When deciding whether to grant a stay of discovery, the Court is
 8 guided by the objectives of Fed. R. Civ. P. 1 that ensures a “just, speedy, and inexpensive
 9 determination of every action.” *Kor Media Group*, 294 F.R.D. at 581. It is well known that the
 10 purpose of Fed. R. Civ. P. 12(b)(6) is to enable defendants to challenge the legal sufficiency of a
 11 complaint without subjecting themselves to discovery. *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597,
 12 601 (D. Nev. 2011). To establish good cause for a stay, the moving party must show more than an
 13 apparently meritorious Rule 12(b)(6) motion. *Turner Broadcasting System*, 175 F.R.D. at 556.

14 The Court may grant a motion to stay discovery when “(1) the pending motion is potentially
 15 dispositive; (2) the potentially dispositive motion can be decided without additional discovery; and
 16 (3) the Court has taken a “preliminary peek” at the merits of the potentially dispositive motion and is
 17 convinced that the plaintiff will be unable to state a claim for relief.” *Kor Media Group*, 294 F.R.D.
 18 at 581. With the above standards in mind, the Court turns to its “preliminary peek” of Defendant’s
 19 Motion to Dismiss. Based upon its preliminary review, the Court finds good cause to grant a
 20 temporary stay of discovery pending the resolution of Defendant’s Motion to Dismiss. Accordingly,

21 **IT IS ORDERED** that the parties Stipulation and Order to Stay Discovery (ECF No. 24) is
 22 **granted.**

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1 **IT IS FURTHER ORDERED** that the parties' stipulation and agreement to extend
2 Plaintiffs' deadline to file their supplement to Plaintiffs' Opposition to Defendant's Motion to
3 Dismiss is **granted**. Plaintiffs shall have until **October 30, 2016** to file their supplement to their
4 Opposition to Defendant's Motion to Dismiss.

5 DATED this 29th day of August, 2016.

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9 GEORGE FOLEY, JR.

10 United States Magistrate Judge
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